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Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

SELINA KEENE, MELODY FOUNTILA, MARK) Case No.: 4:22-cv-01587-JSW
MCCLURE,)

Plaintiffs,

v.

CITY AND COUNTY OF SAN FRANCISCO;
LONDON BREED, Mayor of San Francisco in her
official capacity; CAROL ISEN Human Resources
Director, City and County of San Francisco, in her
official capacity; DOES 1-100,

Defendants.

) **EX PARTE APPLICATION AND**
) **DECLARATION OF RUSSELL DAVIS**
) **TO SHORTEN TIME OF NOTICE**
) **FOR MOTION TO ENTER**
) **ORDER ON PLAINTIFFS' MOTION**
) **FOR PRELIMINARY INJUNCTION**

) Date: September 23, 2022
) Time: 9:00 AM
) Judge: Hon. Jeffrey S. White
) Courtroom: 5
)

EX PARTE APPLICATION AND DECLARATION OF RUSSELL DAVIS

1
2 1. I am the attorney for Plaintiffs in this matter. I have personal knowledge of the facts
3 in this Declaration, and if called to testify about them, I would and could do so competently.

4 2. On May 23, 2022, Plaintiffs filed a motion for preliminary injunction. That motion
5 was calendared for a hearing on July 8, 2022.

6 3. On or about July 22, 2022, I called the Clerk of the Court regarding the above
7 motion. The clerk stated that the Court “had not forgotten about you.”
8

9 4. On August 29, 2022, I sent a letter to the Court regarding the new CDC guidelines.
10 I had hoped that the new guidelines would assist the Court in entering a ruling on Plaintiffs’
11 motion for preliminary injunction.

12 5. My clients are extremely prejudiced by the lack of a ruling in this matter. Plaintiffs
13 had not intended to retire for more than five (5) years. As a result of their constructive firing,
14 their retirement benefits are far lower than anticipated. Their mortgage payments and simple
15 items like buying food, and paying for gas and electric and water have now become far more
16 of a burden. As a result, Plaintiffs have contemplated having to sell their homes.
17

18 6. It is apparent that Plaintiffs’ motion for preliminary injunction has “fallen through
19 the cracks.” By the attached motion (Exhibit 1) Plaintiffs respectfully seek to have judgment
20 entered on their motion. This will aid in moving the case forward.
21

22 7. On September 12, 2022, at 6:25 p.m., I notified opposing counsels, Kate Kimberlin,
23 Esq. and Jim Emory, Esq. of this ex parte application and will serve them with this application
24 and moving papers via Pacer on September 13, 2022.

25 ///

26 ///

27 ///

1 I declare under penalty of perjury of the laws of the State of California that the above is
2 true and correct. Executed this 13th day of September 2022.

3 /s/ Russell Davis

4 Russell Davis, Esq.

5 PACIFIC JUSTICE INSTITUTE

6 *Attorney for Plaintiffs*
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EXHIBIT 1

Russell Davis (SBN 177959)
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official capacity; DOES 1-100,

Defendants.

) **NOTICE OF MOTION AND MOTION**
) **TO ENTER AN ORDER ON**
) **PLAINTIFFS' MOTION FOR**
) **PRELIMINARY INJUNCTION**

)
)
) Date: September 30, 2022
) Time: 9:00 AM
) Judge: Hon. Jeffrey S. White
) Courtroom: 5
)
)
)

NOTICE OF MOTION

TO ALL DEFENDANTS AND THEIR ATTORNEYS OF RECORD: PLEASE TAKE NOTICE that on September 30, 2022, at 9:00 a.m. in Courtroom 5, Plaintiffs will move the Court to enter a ruling on their Motion for Preliminary Injunction, first filed on May 23, 2022, with a hearing date of July 8, 2022. The ground for this Motion is the extreme prejudice Plaintiffs are suffering from the lack of said ruling.

STATEMENT OF FACTS

On May 23, 2022, Plaintiffs filed a motion for preliminary injunction. Plaintiffs' motion was calendared for a hearing on July 8, 2022. As of September 13, 2022, a ruling on that motion has not been entered. By this Motion, Plaintiffs respectfully request the Court to enter a ruling on their motion for preliminary injunction.

STATEMENT OF THE LAW

Pursuant to the Code of Conduct for United States Judges:

Canon 3: A Judge Should Perform the Duties of the Office Fairly, Impartially and Diligently

The duties of judicial office take precedence over all other activities. The judge should perform those duties with respect for others, and should not engage in behavior that is harassing, abusive, prejudiced, or biased. The judge should adhere to the following standards:

(A) Adjudicative Responsibilities.

(1) A judge should be faithful to, and maintain professional competence in, the law and should not be swayed by partisan interests, public clamor, or fear of criticism.

(2) A judge should hear and decide matters assigned, unless disqualified, and should maintain order and decorum in all judicial proceedings.

Pursuant to Canon 3(A)(2), Plaintiffs move the Court to decide their motion for preliminary injunction.

Respectfully submitted this 13th day of September 2022.

/s/ Russell Davis

Russell Davis, Esq.
PACIFIC JUSTICE INSTITUTE

Attorney for Plaintiffs